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REMARKS

Claims 1-20 are currently pending in the application. Claim 2 has been amended by changing a comma to a semicolon at line 6. No new matter has been added.

The Claimed Invention

The claimed invention provides a bi-directional broadcasting and delivery system, and a method for using such a system, which includes an advertiser system, an advertising agent system, a broadcasting station system of a broadcasting station, a user terminal of a user, and a service system which may be connected to a network. (Figure 2) An advertiser system 10 transmits policy data to an advertising agent system 20. The advertising agent system 20 transmits policy data and an ID of the policy data through a network 100 to the service system 50 which is composed of a server and a database. The advertising agent system 20 requests the broadcasting station system 30 to broadcast and deliver the produced advertisement program for the sales promotion. The broadcasting station system 30 broadcasts and delivers a program produced by the broadcasting station and containing the advertisement program for the sales promotion through the satellite 60 in response to the request from the advertising agent system 20 together with program data. The user terminal 40 receives the program containing the advertisement program from the broadcasting station system 30 to display them on the display screen. The user makes a selection which is recorded in the user terminal 40, and in the service system 50 through the network 100.

Claims 1-20

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,637,028 Voyticky et al. in view of "Admitted Prior Art." (Office Action at 2) The Examiner's rejection of Claims 1-20 repeated verbatim the Examiner's discussion of 35 U.S.C. § 103(a) in the previous office action, and Applicant's response to that portion of the previous office action is incorporated by reference as if fully restated herein. This paper will not, therefore, repeat the discussion provided in

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response to the previous office action as to why the Examiner's reading of Voyticky et al. is incorrect. As discussed below, the Examiner's response to Applicant's arguments is inadequate.

Because Claims 2-11 depend from independent Claim 1, and Claims 13-20 depend from independent Claim 12, the following discussion focuses on the independent claims with the understanding that the arguments presented apply to all of the claims.

As discussed in the response to the previous office action, the Examiner has adopted the erroneous view, among others, that a service system, an advertiser system, and an advertising agent system are known in the prior art. The Examiner has renewed this error in responding to Applicant's arguments: "an advertising agent must use a system to produces [sic] an advertisement program and transmits [sic] the produced advertisement program to the broadcasting station and request the broadcasting of this advertisement program." (Office Action at 5) Some of the Examiner's errors in reaching this view of the "Admitted Prior Art" are discussed in the paragraphs that follow.

Advertising agents working according to the prior art do not implicitly use systems in the manner the Examiner has suggested. The Examiner has simply misread Specification at 13, lines 5-6, as describing prior art. (See Office Action at 4-5) That portion of the Specification describes the claimed invention as shown in Figure 2 and not the prior art as shown in Figure 1.

According to well-established prior art methods, advertising agents can schedule, produce, and deliver advertisements without systems of the type the Examiner assumes, even to the point of using person-to-person written and telephonic communications with physical delivery of advertisements in videotape or film format to broadcasters. Production of broadcast advertising without significant use of digital information technology was commonplace in prior art broadcasting and advertising production methods employed during the mid-twentieth century.

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In addition, the Examiner's statement that Voyticky et al. could be combined with unspecified prior art "to leverage the skills and resources of an advertising agent when marketing a product" does not explain why such a hypothetical combination would be obvious, even if one assumes *arguendo* that there was prior art of the type the Examiner has incorrectly assumed to exist.

Finally, the Examiner's reliance on unspecified prior art in rejecting Claims 1-20 amounts to impermissible hindsight and an improper assertion of technical fact in an area of esoteric technology without support by citation of any reference work. See M.P.E.P. § 2144.03, citing *In re Ahlert*, 424 F.2d 1088, 1091, 165 U.S.P.Q. 418, 422-21 (C.C.P.A. 1970).

Conclusion

In view of the foregoing, Applicant submits that all of the claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed.

Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041 (Whitham, Curtis & Christofferson).

Respectfully submitted,

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